

Recommended changes for
Rule R365-3. Computer Software Licensing, Copyright and Control
January 18, 2001

As stated in its purpose this rule is to establish the state's position and its intent to:

- 1) comply with computer software licensing agreements and federal laws, including copyright and patent laws;
- 2) define the methods by which the state will control and protect computer software; and
- 3) establish the state's right, title and interest in state-developed computer software, including its sale and transfer under certain conditions.

Primary purpose of the proposed change is to modify the process that agencies are to follow in requesting permission to sell or transfer state-developed software as was discussed in the last ITPSC meeting. In addition several additional changes are proposed to update or clarify the rule.

The section numbers for this rule will be modified based on approval of the proposed changes.

Under definitions:

1. Delete definition of "computer data base" because use of that term has been removed.
2. Delete "and computer data bases" from the definition of computer software because this rule applies to software and not the sale and transfer of data.

Under Compliance and Responsibilities

1. Under item (1) add "federal contracts and funding agreements" to insure that any federal agreements are acknowledged. And add: "Requests for interpretation of a software licensing agreement shall be submitted to the Chief Information Officer." Since Section (2b) is proposed to be deleted, its intent has been moved to Section (1).
2. Section (2a) Add: "and respective licensing agreements." To capture intent of (2b) but leave how that is done to the state agencies.
3. Section (2b) delete. The intent is reflected in sections (1) and (2a) with proposed changes.
4. Section (2c) rewording to remove the implication that pirated software is okay under conditions of need. Delete: "Provide enough legally purchased copies of computer software to enable all employees to meet management's expectations and reduce any necessity for computer software piracy." Add: "Verify that all computer software used by state employees to meet management's expectations is legal and currently licensed."
5. Section (2e) Delete: "Carefully research". Add: "Understand the conditions" for consistent wording with the addition to the section of "and inform all agency software users of these conditions." This expands the responsibility to inform users of licensing agreements.

6. Section (2) add: “(f) Inform employees that any state-developed software is an asset owned by the state and is controlled under this rule.” This is to ensure that employees understand that state-developed software belongs to the state and that work done by employees on state time is a state owned asset.
7. Section (2) add: “Information regarding this rule and its implementation must be made available to all affected staff by the State of Utah manager responsible for the performance of that staff member.” This is to clarify responsibility.
8. Section (4a) is modified to change the approval process for selling/transferring of software. It is proposed that the approval request go to the Chief Information Officer rather than the Information Technology Policy and Strategy Committee and that the CIO provide a summary of these requests to the ITPSC. Add: “prior to the sale or transfer,”. The request should be made prior to the sale/transfer. Delete: “the Information Technology Policy and Strategy Committee, through”. Add: “A summary report of these requests will be provided to the Information Technology Policy and Strategy Committee.” Also add at end of this section: “An example “Memorandum of Agreement” for the transfer/sale of state-developed software can be obtained from the web page of the Chief Information Officer.
9. Section (6) Change “shall” to “may”. To allow flexibility when resources are not available for audit purposes.